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Recommended Findings

**PLANNING COMMISSION HEARING – MAY 15, 2019
RECOMMENDED FINDINGS**

**Matthiasson Family Winery Use Permit
Application Numbers P17-00394-UP and P19-00190-VIEW
3171 Dry Creek Road, Napa
APN 035-460-022**

ENVIRONMENTAL:

The Planning Commission (Commission) has received and reviewed the proposed Negative Declaration pursuant to the provisions of the California Environmental Quality Act (CEQA) and of Napa County's Local Procedures for Implementing CEQA, and finds that:

1. The Planning Commission has read and considered the Negative Declaration prior to taking action on said Negative Declaration and the proposed project.
2. The Negative Declaration is based on independent judgment exercised by the Planning Commission.
3. The Negative Declaration was prepared and considered in accordance with the requirements of the California Environmental Quality Act (CEQA).
4. There is no substantial evidence in the record as a whole, that the project will have a significant effect on the environment.
5. There is no evidence, in considering the record as a whole that the proposed project will have a potential adverse effect on wildlife resources or habitat upon which the wildlife depends.
6. The site of this proposed project is not on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5 and is not within the boundaries of any airport land use plan.
7. The Secretary of the Commission is the custodian of the records of the proceedings on which this decision is based. The records are located at the Napa County Planning, Building & Environmental Services Department, 1195 Third Street, Second Floor, Napa, California.

VIEWSHED:

The Commission has reviewed the attached Viewshed application and makes the following findings:

8. The project as designed or modified is consistent with Chapter 18.108, Conservation Regulations, of the code.

Analysis: In accordance with Chapter 18.108, no construction occurs on slopes of 30% or greater. In conjunction with the Use Permit and Viewshed applications, the Engineering Services Division has conditioned the submittal of a storm water pollution prevention plan and incorporation of best management practices, as necessary. Plans will be reviewed by staff to meet all the requirements and intent pursuant to Chapter 18.108.

9. If the highest point of the proposed project is located more than twenty-five (25) vertical feet below a major or minor ridgeline, that measures have been included in the project to reduce its visual impact on the major or minor ridgeline through use of existing natural vegetation, landscaping, topographical siting, architectural design, and color tone; or if the highest point of the proposed structure is within twenty-five (25) vertical feet of a major or minor ridgeline, that the existing vegetation, proposed landscaping, topographical siting, architectural design, and color tone screen the predominant portion of the proposed structures.

Analysis: The proposed water tanks are located more than 25 vertical feet below a major ridgeline. The tanks would be partially dug into the hillside and would sit approximately 8 feet above grade when viewed from the east. The applicant proposes plantings 13 evergreen trees surrounding the tanks. Proposed tree types include evergreens such as olive trees, Catalina Cherry, and Strawberry tree and would range from eight feet to ten feet in height. The small area of trees would screen the tanks and would not impact the major ridgeline above.

10. The proposed structures, access roads and other site improvements are sited and designed to minimize adverse effects on views from designated viewshed roads.

Analysis: The tanks would be partially dug into the hillside in order to reduce the overall height of the portion of the tanks potentially visible from Dry Creek Road. The applicant proposes plantings 13 evergreen trees surrounding the tanks. Proposed tree types include evergreens such as olive trees, Catalina Cherry, and Strawberry tree and would range from eight feet to ten feet in height. The trees would significantly screen the tanks.

11. The proposed structures, access road and other site improvements, including earthmoving or grading, and benches or shelves minimize the removal of vegetation.

Analysis: A small portion of vineyards will be required to be removed for the installation of the tanks and to create an area to plant the screening trees. Native vegetation will not be removed and the screening trees will replace a portion of the removed vineyards.

12. The siting and design of site improvements and access roads minimize grading and alteration of natural landforms and topography.

Analysis: The project site is relatively flat and limited grading will be required for the proposed barrel building and improvements to the access road. The siting of the structures on flat portions of the property and strategic locations of road improvements helps minimizes the required grading and alterations of the natural landform and topography.

13. A landscape and/or vegetation retention plan in conformance with the Design Manual has been submitted and approved for the site that would provide maximum screening from designated viewshed roads through preservation of existing vegetation and the planting of new vegetation and provide for defensible space in conformance with state law.

Analysis: As proposed, the new trees would be planted around three sides of the water tanks. The water tanks will be installed partially into the ground, and will extend approximately eight feet above the grade when viewed from the road. The height of the proposed trees would range from eight feet to ten feet in height, which will meet or exceed the height of the water tanks extending above the grade.

14. The proposed structures and associated improvements substantially conform to the Design Manual in order to reduce their visual impact on the views of major and minor ridgelines as viewed from any designated viewshed road and unique topographic or geologic features as viewed from any county road. The following landforms will be considered to be unique topographic or geologic features for the purposes of this subsection: Mt. St. Helena, Stag's Leap, Calistoga Palisades, Round Hill, Mt. George and Mt. St. John, all of which are not applicable to this site.

Analysis: The proposed structures will be located more than 25 vertical feet below a major ridgeline. Therefore, as designed the proposed project and associated improvements substantially conform to the County's Design Manual, and thereby reduce visual impacts on ridgelines. No unique topographic or geologic features are applicable to this subject site.

USE PERMIT:

The Commission has reviewed the use permit request in accordance with the requirements of the Napa County Code §18.124.070 and makes the following findings:

15. The Commission has the power to issue a Use Permit under the Zoning Regulations in effect as applied to property.

Analysis: The project parcel is zoned Agricultural Watershed (AW) The project is consistent with the AW zoning district regulations. A winery (as defined in the Napa County Code Section 18.08.640) and uses in connection with a winery (refer to Napa County Code Section 18.20.030) are permitted in the AW District with an approved use permit. The project, as conditioned, complies with the Napa County Winery Definition Ordinance (WDO) and all other requirements of the Zoning Code as applicable.

16. The procedural requirements for a Use Permit set forth in Chapter 18.124 of the Napa County Code (zoning regulations) have been met.

Analysis: The Use Permit application has been appropriately filed and notice and public hearing requirements have been met. The hearing notice and intent to adopt a Negative Declaration were posted on April 24, 2019, and copies were forwarded to appropriate persons on the mailing list. The public comment period ran from April 25, 2019 through May 14, 2019.

17. The grant of the Use Permit, as conditioned, will not adversely affect the public health, safety or welfare of the County of Napa.

Analysis: Granting the Use Permit for the project, as proposed and conditioned, will not adversely affect the health, safety or welfare of the County. Various County divisions and departments have reviewed the project and commented regarding site access, upgrading the existing wastewater disposal system, parking, building permits, and fire protection. Conditions are recommended which will incorporate these comments into the project to ensure the protection of the public health, safety, and welfare.

18. The proposed use complies with applicable provisions of the Napa County Code and is consistent with the policies and standards of the Napa County General Plan and any applicable specific plan.

Analysis: Compliance with the Zoning Ordinance

The project is consistent with the AW zoning district regulations. A winery (as defined in the Napa County Code Section 18.08.640) and uses in connection with a winery (refer to Napa County Code Section 18.20.030) are permitted in the AW District subject to an approved use permit. The proposed project includes the construction of a new winery building and will comply with the development standards of the AW District. The project, as conditioned, complies with the Napa County Winery Definition Ordinance (WDO) and all other requirements of the Zoning Code as applicable.

Analysis: Compliance with the General Plan

As proposed and as conditioned, the requested Use Permit is consistent with the overall goals and objectives of the General Plan (2008). The General Plan land use designation for the subject parcel is Agricultural Resource (AR). General Plan Agricultural Preservation and Land Use Goal AG/LU-1 guides the County to “preserve existing agricultural land uses and plan for agriculture and related activities as the primary land uses in Napa County.” General Plan Goal AG/LU-3 states that the County should “support the economic viability of agriculture, including grape growing, winemaking, other types of agriculture, and supporting industries to ensure the preservation of agricultural lands.” Goal AG/LU-3 and Policy AG/LU-2 recognize wineries as agricultural uses.

The proposed use of the property for fermenting and processing of grape juice into wine supports the economic viability of agriculture within the County, consistent with Goal AG/LU-3 and Policy AG/LU-4 (“The County will reserve agricultural lands for agricultural use including land used for grazing and watershed/open space...”). By allowing the proposed agricultural use, the requested Use Permit supports the economic viability of both the existing vineyard and requested agricultural product processing uses on the property, consistent with Economic Development Goal E-1 and Policy E-1.

The “Right to Farm” is recognized throughout the General Plan and is specifically called out in Policy AG/LU-15 and in the County Code. “Right to Farm” provisions ensure that agriculture remains the primary land use in Napa County and is not threatened by potentially competing uses or neighbor complaints. Napa County’s adopted General Plan reinforces the County’s long-standing commitment to agricultural preservation, urban centered growth, and resource conservation. This project is consistent with the General Plan’s overall policy framework and with the Plan’s specific goals and policies.

Applicable Napa County General Plan goals and policies:

- Goal AG/LU-1: Preserve existing agricultural land uses and plan for agriculture and related activities as the primary land uses in Napa County.
- Goal AG/LU-3: Support the economic viability of agriculture, including grape growing, winemaking, other types of agriculture, and supporting industries to ensure the preservation of agricultural lands.
- Policy AG/LU-2: “Agriculture” is defined as the raising of crops, trees, and livestock; the production and processing of agricultural products; and related marketing, sales and other accessory uses. Agriculture also includes farm management businesses and farm worker housing.

Policy AG/LU-4: The County will reserve agricultural lands for agricultural use including lands used for grazing and watershed/open space, except for those lands which are shown on the Land Use Map as planned for urban development.

Policy AG/LU-8: The County's minimum agricultural parcel sizes shall ensure that agricultural areas can be maintained as economic units.

PolicyAG/LU-15: The County affirms and shall protect the right of agricultural operators in designated agricultural areas to commence and continue their agricultural practices (a "right to farm"), even though established urban uses in the general area may foster complaints against those agricultural practices. The "right to farm" shall encompass the processing of agricultural products and other activities inherent in the definition of agriculture provided in Policy AG/LU-2.

Goal CON-10: Conserve, enhance and manage water resources on a sustainable basis to attempt to ensure that sufficient amounts of water will be available for the uses allowed by this General Plan, for the natural environment, and for future generations.

Goal CON-11: Prioritize the use of available groundwater for agricultural and rural residential uses rather than for urbanized areas and ensure that land use decisions recognize the long-term availability and value of water resources in Napa County.

PolicyCON-24(c): Maintain and improve oak woodland habitat to provide for slope stabilization, soil protection, species diversity, and wildlife habitat through appropriate measures including one or more of the following:

c) Provide replacement of lost oak woodlands or preservation of like habitat at a 2:1 ratio when retention of existing vegetation is found to be infeasible. Removal of oak species limited in distribution shall be avoided to the maximum extent feasible.

Policy CON-53: The County shall ensure that the intensity and timing of new development are consistent with the capacity of water supplies and protect groundwater and other water supplies by requiring all applicants for discretionary projects to demonstrate the availability of an adequate water supply prior to approval. Depending on the site location and the specific circumstances, adequate demonstration of availability may include evidence or calculation of groundwater availability via an appropriate hydrogeologic analysis or may be satisfied by compliance with County Code "fair-share" provisions or applicable State law. In some areas, evidence may be provided through coordination with applicable municipalities and public and private water purveyors to verify water supply sufficiency.

Policy CON-54: The County shall maintain or enhance infiltration and recharge of groundwater aquifers by requiring all projects in designated groundwater deficient areas as identified in the County's groundwater ordinance (County Code Chapter 13.15) be designed (at minimum) to maintain a site's

predevelopment groundwater recharge potential, to the extent feasible, by minimizing impervious surfaces and promoting recharge (e.g., via the use of water retention/detention structures, use of permeable paving materials, bio-swales, water gardens, cisterns, and other best management practices).

Policy CON-55: The County shall consider existing water uses during the review of new water uses associated with discretionary projects, and where hydrogeologic studies have shown that the new water uses will cause significant adverse well interference or substantial reductions in groundwater discharge to surface waters that would alter critical flows to sustain riparian habitat and fisheries or exacerbate conditions of overdraft, the County shall curtail those new or expanded water uses.

Policy CON-60.5 All aspects of landscaping from the selection of plants to soil preparation and the installation of irrigation systems should be designed to reduce water demand, retain runoff, decrease flooding, and recharge groundwater.

Policy CON-72: The County shall seek to reduce the energy impacts from new buildings by applying Title 24 energy standards as required by law and providing information to the public and builders on available energy conservation techniques, products, and methods available to exceed those standards by 15 percent or more.

Policy CON-77: All new discretionary projects shall be evaluated to determine potential significant project-specific air quality impacts and shall be required to incorporate appropriate design, construction, and operational features to reduce emissions of criteria pollutants regulated by the state and federal governments below the applicable significance standard(s) or implement alternate and equally effective mitigation strategies consistent with BAAQMD's air quality improvement programs to reduce emissions. In addition to these policies, the County's land use policies discourage scattered development which contributes to continued dependence on the private automobile as the only means of convenient transportation. The County's land use policies also contribute to efforts to reduce air pollution.

Policy CON-81: The County shall require dust control measures to be applied to construction projects consistent with measures recommended for use by the BAAQMD [Bay Area Air Quality Management District].

Goal E-1: Maintain and enhance the economic viability of agriculture.

Policy E-1: The County's economic development will focus on ensuring the continued viability of agriculture in Napa County.

Policy SAF-20: All new development shall comply with established fire safety standards. Design plans shall be referred to the appropriate fire agency for comment as to:

- 1) Adequacy of water supply.
- 2) Site design for fire department access in and around structures.

- 3) Ability for a safe and efficient fire department response.
 - 4) Traffic flow and ingress/egress for residents and emergency vehicles.
 - 5) Site-specific built-in fire protection.
 - 6) Potential impacts to emergency services and fire department response.
19. That the proposed use would not require a new water system or improvement causing significant adverse effects, either individually or cumulatively, on the affected groundwater basin in Napa County, unless that use would satisfy any of the other criteria specified for approval or waiver of a groundwater permit under Sections 13.15.070 or 13.15.080 of the County Code.

Analysis: The project is consistent with General Plan Conservation Policies CON-53 and CON-55, which require that applicants, who are seeking discretionary land use approvals, prove that adequate water supplies are available to serve the proposed use without causing significant negative impacts to shared groundwater resources. The project is categorized as "all other areas" based upon current County Water Availability Analysis policies and therefore water use criteria is parcel specific based upon a Tier 2 analysis.

A Water Availability Analysis Tier 1 and Tier 2 analysis was completed by Madrone Engineering on May 2, 2018 (original submittal November 10, 2017) and a Memorandum (Updated Draft October 10, 2018) was prepared by Richard C. Slade and Associates LLC (RCS) to provide a calculation of the estimated annual groundwater recharge rate for the project parcel. The analyses conclude that water demand of the project (0.58 acre feet per year) can be met with the existing on-site project well and that the total groundwater usage of the winery is less than the estimated annual recharge for the parcel (1.44 acre feet per year). Although water usage associated with the winery will increase, due to the reduction in water usage associated with vineyard irrigation (conversion to dry farming), overall water usage on the property will decrease by approximately 10 percent. The project will not substantially deplete local groundwater supplies. Two project specific conditions of approval (#4.20.a and #6.15.a) have been included to require a Groundwater Demand Management Program to meter all wells serving the property and ensure that the total water usage on the parcel does not exceed the proposed estimate which includes the assumption of the reduction in irrigation water.

Therefore, the project is considered not to have a potential to significantly impact on groundwater resources. Because the projected water demand for the project is below the estimated water availability acre feet per year for the parcel, the requested Use Permit is consistent with General Plan Goals CON-10 and CON-11, as well as the policies mentioned above that support reservation and sustainable use of groundwater for agricultural and related purposes. The project will not require a new water system or other improvements and will not have a negative impact on local groundwater.